



Montana Fish, Wildlife & Parks

DECISION NOTICE Interim Translocation of Bison

Montana Fish, Wildlife & Parks
1420 East 6th Ave., Helena MT 59601
406-444-2535

December 2011

DESCRIPTION OF PROPOSED ACTION

Montana Fish, Wildlife and Parks (FWP) proposed the interim placement of brucellosis-free bison at Marias River Wildlife Management Area, Spotted Dog Wildlife Management Area or locations within Fort Belknap and Fort Peck Reservations pending the completion of a statewide bison conservation strategy.

A) Marias River Wildlife Management Area (WMA)

The Marias River WMA is located 8 miles southwest of Shelby and 70 miles northwest of Great Falls in Pondera and Toole Counties and falls within FWP Administrative Region 4. The property consists of 8,866 contiguous acres (7,540 deeded, 492 Montana Department of Natural Resources, and 833 Bureau of Land Management) on the north and south sides of the Marias River. There are approximately 14 miles of Marias River frontage. Use of Montana Department of Natural Resources (DNRC) and Bureau of Land Management (BLM) lands within the Marias River WMA are subject to their respective permitting processes.

B) Spotted Dog Wildlife Management Area (WMA)

The Spotted Dog WMA was acquired in September 2010 with funding from the Natural Resources Damage Program (NRDP). It encompasses 27,616 acres owned by FWP and 10,261 acres of DNRC lands that are leased by FWP. The Spotted Dog property is located approximately 5 miles northeast of Deer Lodge and one mile south of Avon.

A 2,560-acre bison pasture, designed in consideration of the terms of the purchase agreement between FWP and Rock Creek Cattle Company (RCCC), is proposed to be established within the WMA. The purchase agreement specifies that RCCC has the right to graze cattle on the rest of the property until December 31, 2012. Within the enclosure, bison grazing on the 320 acres of DNRC School Trust Land would be subject to the DNRC permitting processes.

C) Fort Belknap Reservation

The Fort Belknap Indian Reservation is located in north-central Montana and covers 675,000 acres and is home to members of the Assiniboine and Gros Ventre tribes.

Fort Belknap has an existing tribally-owned herd that grazes on approximately 22,000 acres of land in the northwestern portion of the reservation in Blaine County, locally known as Range Unit 2 (13,000 acres), Range Unit 7 (7,000 acres), and Range Unit 60 (2,000 acres). This herd numbers over 450 animals and is intensively managed to support commercial businesses (fee hunting and meat processing) and to provide bison for tribal cultural needs.

Since the Tribes commercial bison is currently using Range Units 2, 7, and 60, the Tribes have planned to enclose 800 acres on the northeastern corner of the old bison pasture to hold study bison that are translocated to the Fort Belknap Reservation. The study bison would only be held within this smaller pasture until the commercial herd is liquidated, which is expected to take three years through hunts, sales of animals to InterTribal Buffalo Council members, and culling bison for cultural needs. If a boundary fence for the 800-acre pasture is not completed in time to receive study bison, the Tribes at the Fort Peck Reservation have offered to provide temporary pasture for these bison on Range Unit 62 (see the following section regarding Fort Peck's location information) until Fort Belknap's fencing effort is completed.

While a formal agreement between FWP and Tribal leadership has not yet been reached, the Tribes would meet the yearly USDA's Animal and Plant Health Inspection Service (APHIS) testing requirements if bison were translocated there. At the end of the interim period, FWP anticipates the ability to receive a percentage of the study bison back for conservation purposes.

D) Fort Peck Reservation

The Fort Peck Reservation encompasses over 2 million acres in northeastern Montana and is home to the Assiniboine and Sioux tribes.

The study bison would be placed at a site located approximately 41 northeast of Wolf Point in Roosevelt County and property consists of 4,800 acres and is known as Tribal Range Unit 62 in Township 30N, Range 49E, which is east of State Highway 13. Currently this range unit is not being grazed by cattle or the Tribes' commercial bison herd.

The Tribes currently manage a commercial herd of 200 bison known as the Turtle Mound Bison. This herd is kept on Range Unit 57, which is 4 miles north of Range Unit 62. These bison are used and harvested for cultural and ceremonial purposes and are available for non-member fee hunts.

The Fort Peck Tribes would be expected to meet the same testing requirements for the bison as described for the Tribes at the Fort Belknap Reservation. The agreement with the Fort Peck Tribes would also be similar to the Fort Belknap Tribes' agreement terms.

ALTERNATIVES CONSIDERED TO THE PROPOSED ACTION

No Action: Bison remain at the Slip n' Slide pastures and at the Green Ranch

A) Slip n' Slide pastures are privately owned (approx. total 70 acres). Both pastures are located just north of Corwin Springs, Montana, in Park County. FWP currently leases the pastures for the QF bison to graze on and the leases for both pastures have been renewed through July 2012.

B) The Green Ranch is a sub-ranch of the Flying D Ranch owned by Turner Enterprises, Inc. (TEI) located 20-miles west of Bozeman, Montana, in Gallatin and Madison Counties. The property consists of approximately 12,000 acres of intermountain grassland. The majority of the parcel is deeded land, with 2,577 acres leased land from the DNRC. The Green Ranch is separated from the main portion of TEI's Flying D Ranch by the Madison River.

Alternatives Considered but Eliminated from Further Consideration

A) Other FWP-owned Properties

An internal review of potential translocation sites for the interim holding of study bison included Robb-Ledford WMA, Dome Mountain WMA, Blacktail WMA, Wall Creek WMA, Gallatin WMA, and Mount Haggin WMA. With the exception of the Mount Haggin WMA, all were located within the Designated Brucellosis Surveillance Area (DSA) as set by the Montana Department of Livestock. The DSA is an area of increased surveillance (testing) and mitigation practices including vaccination, temporal and spatial separation of cattle and domestic bison from infected wildlife in an area in which brucellosis positive wildlife are known to exist. Those WMAs within the DSA were eliminated from additional analysis and further consideration because of too great a risk for a brucellosis positive elk to come into contact with a study bison rendering the Study no longer valid.

Mount Haggin WMA, south of Anaconda, was deemed unsuitable due to typically severe winter conditions that would likely result in being unable to contain the bison on the WMA.

Warm Springs WMA, south of Deer Lodge, was initially under consideration if the expansion of the WMA included an adjacent property (locally known as the Dutchman property) was completed before the end of 2011. The anticipated transfer date of the Dutchman property into FWP ownership is unknown thus this WMA was eliminated from further investigation.

B) Bob Marshall Wilderness

The Bob Marshall Wilderness was eliminated from additional investigation as an interim site for the following reasons: 1) wilderness designation prohibits facility development or installation of fencing; 2) very limited road access for monitoring bison; 3) does not allow for spatial and temporal separation from livestock due to existing grazing leases; 4) high potential for bison to migrate out of the wilderness during harsh winters; and 5) only limited areas exist within the wilderness that provide bison habitat (e.g. grasslands).

PUBLIC PROCESS AND COMMENTS

Montana Fish, Wildlife & Parks is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of its proposed actions to the human and physical environments, evaluate those impacts through an interdisciplinary approach, including public input, and make a decision to proceed or not with the project.

An environmental assessment was completed on the proposed action by FWP and released for public comment September 14, 2011 through October 19, 2011. Additionally, public hearings were hosted by FWP in Deer Lodge (October 5th), Shelby (October 6th), and Glasgow (October 17th). Attendance at the meetings was 166, 111, and 154 respectively. The meetings provided an opportunity for FWP to address questions about proposed project and its alternatives and to receive public comments.

Legal notices announcing the availability of the EA were published in the *Billings Gazette*, *Bozeman Chronicle*, *Montana Standard (Butte)*, *Independent Observer (Conrad)*, *Pioneer Press (Cut Bank)*, *Silver Star Post (Deer Lodge)*, *Fort Belknap News*, *Fort Peck Journal*, *Great Falls Tribune*, *Havre News*, *Independent Record (Helena)*, *Missoulian*, *Shelby Promoter*, *The Glasgow Courier*, *The Valerian*, and *Wolf Pont Herald News*. In addition to the announcement, the EA was posted on FWP's webpage -

http://fwp.mt.gov/news/publicNotices/environmentalAssessments/speciesRemovalAndRelocation/pn_0055.html .

An announcement regarding the availability of the EA and the addendum was emailed to 1,759 individuals and organizations including neighbors to the prospective sites; local, state, and federal government offices; non-profit organizations; and other interest parties who have expressed interest in bison management in the past. Announcements were sent in the forms of an email, a hard copy, or postcard.

Two statewide press releases were also sent to to FWP distribution list of 448 in-state and out-of-state media, non-profit organizations, sportsmen's organizations, and interested parties. The first release was used to announce the availability of the EA and to solicit public comments. The second to announce that an addendum was prepared and that the public comment period was extended.

A summary of the public comments received and FWP's responses begin on page 6 of this notice.

DECISION

Based upon the Environmental Assessment (EA) and public comments that the Department received via email, regular mail, and at the public meetings, I have decided that the 68 bison at the Slip n' Slide pastures will be translocated to the tribal properties. No bison will be removed from the Green Ranch nor will any bison be placed within either of the FWP-owned Wildlife Management Areas. This decision would provide a means in which the Quarantine Feasibility Study can be completed and meet the commitments the Department has made in other Decision Notices that bison in the study may be placed on tribal lands when they became available for future conservation purposes. This decision is a fiscally responsible one and FWP will retain some oversight of these bison throughout the 5-year monitoring period.

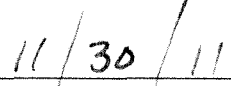
Movement of the study bison to Fort Belknap and Fort Peck would be dependent upon negotiations between FWP and each Tribe and approval of Memorandums of Understanding that will define containment requirements, management responsibilities of the study bison, and what would occur at the end of the monitoring period to the bison and progeny. Until the memorandum process is completed, the bison will remain at the Slip n' Slide pastures under the supervision and care of FWP.

The analysis of potential impacts to the human and physical environment completed in the draft EA is adequate for the translocation of study bison to tribal properties.

A few errors were found in the draft EA that do not change the scope or the analysis presented. FWP will post the updated draft EA and this Decision Notice to the Department's website. All attendees to the public meetings and those who submitted written comment will also receive a copy of the Decision Notice.



Joe Maurier, Director
Montana Fish, Wildlife & Parks



Date

Summary of Public Comments

Public participation is a mechanism for agencies to consider substantive comments on a proposal. Over 3,490 comments were received via email, regular mail, and through the public hearings of which nearly 1,000 were from residents of Montana. Comments from within Montana covered all regions of the state, representing 145 different communities. Of the email comments submitted, 83% were in the format of three different form letters from three different Montana-based organizations. All three form letters expressed different positions; one generally supported the proposed action, one supported the translocation of bison to tribal lands, and the last did not specify a position on any of the alternatives. The form letters were submitted from in-state, out-of-state, and international locations. In addition to the form letters, a petition with over 600 signatures was submitted in opposition to the translocation of bison to the Spotted Dog Wildlife Management Area.

Of the 445 unique comments, each alternative and portion of alternative had supporters and opponents. Many of the unique comments provided preferences to more than one location under consideration. Preferences based on specific locations by and large showed that the translocation of bison to FWP-owned wildlife management areas was not supported, whereas translocation to tribal lands was supported. Twenty percent of the unique comments did not specify a preference for or against any of the locations, but often these comments did pose relevant questions pertaining to the proposed action or offered opinion/comments outside the scope of this effort. Five percent of the unique comments did support the No Action alternative.

Fifty-three different organizations and government offices provided feedback on the proposed project. These ranged from non-profits with various focuses (wildlife, access, hunting, livestock, etc.) to local, state, and federal offices. Similar to the broad level of preferences the unique comments displayed toward each location under consideration, such was the case with these organizations and offices.

FWP hosted three public meetings: Deer Lodge (October 5th), Shelby (October 6th), and Glasgow (November 17th). All meetings were well attended; 166, 111, and 154 respectively. An average of 32 oral comments was submitted to FWP at each location. At the invitation of local ranchers, an impromptu meeting was also held in Chinook (November 17th) with 11 people attending.

Numerous comments were received pertaining to bison management in general and the status of the health and population of Yellowstone bison. Those comments are beyond the scope of this EA and are not addressed in the subsequent section. These include: 1) bison management near Yellowstone National Park, 2) FWP's agreement with Turner Enterprises, 3) treatment of bison in the quarantine feasibility study, 4) expand bison hunting opportunities to control excess bison, and 5) analysis of additional locations for bison restoration efforts.

The following is a synopsis of the feedback and FWP's response to relevant comments and questions based upon FWP's understanding and interpretation of existing statutes and rules.

General Overall Comments

1) What is meant by "interim"?

In the context of this project, interim means for 5 years when the monitoring period for the Quarantine Feasibility Study is completed. FWP has committed to developing a statewide conservation strategy for bison that is expected to be completed by not later than the end of 2015, by which time a decision on whether there is a place on the Montana landscape for wild bison will be made. In the mean time, FWP has bison that have completed Phase III of the on-going Quarantine Feasibility Study, and needs a place to house these disease-free bison pending completion of that plan.

2) Environmental Analysis is inadequate – A full EIS is required

The Department has determined an environmental impact statement (EIS) is not required by the proposed action of translocating study bison to Fort Belknap Reservation and Fort Peck Reservation for reasons explained in Section 4 of the EA. This environmental assessment (EA) is the appropriate level based on the significance criteria described at 12.2.432(1) (a-g) ARM (Administrative Rules of Montana) including: (a) Severity, duration, geographic extent, frequency of occurrence of the impact – Most of the anticipated impacts to resources are expected to be either negligible or neutral to the resource over the monitoring period at tribal lands. The duration and frequency of the impacts of the proposed action is limited to 5 years for the completion of the Quarantine Feasibility Study, at which point the study bison and their progeny would be placed at a permanent site based upon the guidance of a statewide bison conservation strategy.

3) Because these proposals could impact federally listed species, formal consultation with the USFWS is required

Formal consultation with the US Fish and Wildlife Service is not required because the proposed project is 1) not a federal action, 2) is not being funded by federal funds, and 3) is not taking place on lands purchased by federal funds, such as Pittman-Robertson. Furthermore, since the proposed project would not include the taking of a federally listed, no consultation is needed.

4) Need to complete a statewide bison management strategy before this interim translocation

While it would be preferable to have the statewide conservation strategy complete before any bison are moved, FWP needs a location(s) to hold bison to complete the quarantine protocol. As stated above, before bison are permanently placed anywhere in Montana where FWP has jurisdiction, such placement would be analyzed in a comprehensive environmental impact statement (EIS).

5) Proposals/EA fails to meet requirements of SB 212 – MCA 87-1-216

Senate Bill 212 was passed by the 2011 Legislature and is incorporated into 87-1-216 MCA. FWP considers the detail in this EA for each of the potential sites as meeting the management plan requirement of SB 212, and the public meetings held in Deer Lodge (Oct. 5), Shelby (Oct. 6), and Glasgow (Oct. 17) as meeting the requirement for a public meeting, so no additional management plan is necessary. Specifically, from page 18 of the draft EA: This EA includes complete descriptions of management elements for each site considered for interim translocation of bison. The management elements herein collectively represent the management plan for each site. FWP considers this EA and public review process as meeting the management plan requirements of 87-1-216(6) for each of the sites discussed herein (Spotted Dog WMA, Marias River WMA, Fort Belknap Reservation, Fort Peck Reservation).

Specific requirements of SB 212 include:

- (a) measures to comply with any applicable animal health protocol required under Title 81, under subsection (2)(b), or by the state veterinarian;*
- (b) any animal identification and tracking protocol required by the department of livestock to identify the origin and track the movement of wild buffalo or bison for the purposes of subsections (2)(b) and (5)(c);*
- (c) animal containment measures that ensure that any animal transplanted or released on private or public land will be contained in designated areas. Containment measures must include but are not limited to:
 - (i) any fencing required;*
 - (ii) contingency plans to expeditiously relocate wild buffalo or bison that enter private or public property where the presence of the animals is not authorized by the private or public owner;*
 - (iii) contingency plans to expeditiously fund and construct more effective containment measures in the event of an escape; and*
 - (iv) contingency plans to eliminate or decrease the size of designated areas, including the expeditious relocation of wild buffalo or bison if the department is unable to effectively manage or contain the wild buffalo or bison.**
- (d) a reasonable means of protecting public safety and emergency measures to be implemented if public safety may be threatened;*
- (e) a reasonable maximum carrying capacity for any proposed designated area using sound management principles, including but not limited to forage-based carrying capacity, and methods for not exceeding that carrying capacity; and*
- (f) identification of long-term, stable funding sources that would be dedicated to implementing the provisions of the management plan for each designated area.*
- (6) When developing a management plan in accordance with subsection (5), the department shall provide the opportunity for public comment and hold a public hearing in the affected county or counties. Prior to making a decision to release or transplant wild buffalo or bison onto private or public land in Montana, the department shall respond to all public comment received and publish a full record of the proceedings at any public hearing.*

(7) The department is liable for all costs incurred, including costs arising from protecting public safety, and any damage to private property that occurs as a result of the department's failure to meet the requirements of subsection (5).

6) Do Tribes have to follow requirements of SB212?

SB212 requires FWP to complete a management plan before bison are translocated in Montana. In compliance with SB212, as stated above, the details in the draft EA constitute the management plan for each of the reservation sites. While the Ft. Peck and Ft. Belknap reservations are within Montana's state boundaries, they are sovereign nations not subject to the laws of Montana, and therefore FWP can't enforce SB212 on the reservation.

7) MEPA and/or SB108 and/or translocation ARM-statute require coordination with all affected counties. This has not been done.

FWP did solicit and hear the counties' concerns, including as part of the public comment process, and the decision is intended to incorporate those concerns.

8) EA doesn't identify funding sources to implement per SB212. Don't support outside funding because then you become accountable to those funding sources.

Based on the decision to place bison only on the Tribal lands, it isn't necessary to identify funding sources for the two WMA alternatives. The Fort Belknap and Fort Peck Tribes would provide necessary funding for management of translocated bison at their respective reservations.

9) If funded using FWP dollars, need to assess impacts to other FWP programs.

See answer above. There should be no impact to other FWP programs.

10) Hunting license dollars shouldn't be used for this – no benefit to hunters. What do hunters get out of this?

Montana statute section 87-1-201 (3), Montana Code Annotated (MCA), authorizes the Montana Fish, Wildlife and Parks Commission to set the policies for the protection, preservation, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state. Within the policies established by the Commission, FWP is responsible for supervising the management and public use of all the wildlife, fish, game, furbearing animals, and game and nongame birds of the state (§ 87-1-201 (1) MCA). It is FWP's hope that this interim measure will ultimately contribute to expanded opportunities for bison, which in turn could lead to increased opportunities for hunters to assist with population management through regulated hunting.

- 11) Proposal is jeopardizing trust and relationship between FWP and landowners and FWP and sportsmen → Loss of public trust.

FWP greatly values the relationship and trust between landowners, sportsmen, and FWP, and regrets if this proposal has strained those relationships. FWP realizes that bison are a controversial species, and is committed to ensuring that any impacts to surrounding landowners resulting from this proposal are minimized. While this EA only analyzes the interim translocation of bison, demonstrating that the quarantine protocol is effective is the best next step for potentially increasing hunting opportunities for sportsmen.

- 12) Consequences of the project moving forward could be the loss of public hunting access on private lands (block management and currently free public hunting) and hunting license purchases.

As stated above, FWP greatly values the relationship and trust between landowners, sportsmen, and FWP, and is committed to ensuring that any impacts to surrounding landowners resulting from this proposal are minimized and mitigated. If bison are translocated to any of the four sites, FWP is hopeful that neighboring landowners will see that FWP is committed to minimizing impacts and won't be inclined to limit public hunting access that is currently being provided. However, all landowners have the prerogative to manage their property as they see fit, including whether or not to allow public hunting access.

- 13) Loss of hunting access will have negative economic impact on local communities (due to fewer hunters visiting those areas).

FWP agrees that hunters provide a significant economic benefit to local communities across Montana. As stated above, FWP is hopeful that neighboring landowners will see that FWP is committed to minimizing impacts and won't be inclined to limit public hunting access that is currently being provided.

- 14) Threat of spread of brucellosis from bison to cattle and negative impacts to local ranchers.

Both APHIS and DoL consider them to be brucellosis free. As such, FWP does not consider transmission of brucellosis from these bison to cattle as a risk. These bison have been tested numerous times since they were brought into the quarantine process – many more times than any domestic livestock. Most of the adults have been tested >9 times – and tested negative each time. They have been through one or more pregnancy cycles, and they and all of their offspring have repeatedly tested negative. Furthermore, these bison will be retested throughout the 5-year monitoring period.

- 15) Threat of brucellosis from bison to elk?

These bison have been tested numerous times since they were brought into the quarantine process – many more times than any domestic livestock. Most of the adults have been tested >9 times – and tested negative each time. They have been through 1 or more

pregnancy cycles, and they and all of their offspring have repeatedly tested negative. Both APHIS and DoL consider them to be brucellosis free. Similar to cows that are bought and sold, these animals are considered to be free of brucellosis, and there is nearly zero probability of brucellosis exposure to elk or livestock. Per the quarantine feasibility study protocol, the bison will be contained within an enclosure during the interim period, where they will be separated from elk and livestock. Bison will be periodically tested by APHIS during the interim period they are in the enclosure, and if any were to test positive, they would be removed. Staff will also be looking for any abortions during the high risk period (Jan – June).

16) Other diseases that bison may carry that can impact cattle

Bison have been closely monitored for several years. They have no known infectious diseases and no outwardly sick bison will be moved. The Tribes would be expected to continue to provide annual inoculations to the study bison to ensure their good health.

17) What is role of Dept of Livestock regarding these bison? (i.e., are they still considered a species in need of disease management)?

As stated above, these bison have been tested numerous times, and are considered brucellosis-free. As such, they don't meet the criteria of a species in need of disease management per 87-1-216 MCA (infected with a dangerous disease), and both APHIS and DoL consider them to be brucellosis free. Therefore they will be managed as wildlife by FWP and DoL will have no management role in the management of these bison.

Per 87-1-216, The department:

(a) is responsible for the management, including but not limited to public hunting, of wild buffalo or bison in this state that have not been exposed to or infected with a dangerous or contagious disease but may threaten persons or property;

(b) shall consult and coordinate with the department of livestock on implementation of the provisions of subsection (2)(a) to the extent necessary to ensure that wild buffalo or bison remain disease-free; and

(c) shall cooperate with the department of livestock in managing publicly owned wild buffalo or bison that enter the state on public or private land from a herd that is infected with a dangerous disease, as provided in 81-2-120, under a plan approved by the governor. The department of livestock is authorized under the provisions of 81-2-120 to regulate publicly owned wild buffalo or bison in this state that pose a threat to persons or livestock in Montana through the transmission of contagious disease. The department may, after agreement and authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been exposed to or infected with a contagious disease, pursuant to 87-2-730. The department may, following consultation with the department of livestock, adopt rules to authorize the taking of bison where and when necessary to prevent the transmission of a contagious disease.

- 18) Concern about negative perception of cattle health by other states resulting in potential economic impact to local and statewide economic interests. Impact to cattle prices because of perception of disease.

Both APHIS and DoL consider these bison to be brucellosis free. Because they have been extensively tested to an extent much beyond typical livestock testing, there is no reason for cattle in the areas of these bison to be valued any less than if the bison weren't there.

- 19) Clarification on the legal designation of QFS bison and agency jurisdictions (FWP and DoL) – wild vs. domesticated

Bison originated from Yellowstone National Park as wild bison. They continue to be wild bison, under the jurisdiction of FWP, and will remain categorized as wildlife under any of the alternatives, although if they are translocated to a tribal reservation, they will be under the jurisdiction of the sovereign tribal government(s). If they escaped and moved off the reservation, they would be considered wildlife under jurisdiction of MFWP. While the animals may be behind a fence during the interim period, they are considered study animals, still under the jurisdiction of FWP as wildlife.

- 20) Genetic status of QFS bison – purity, inbreeding concerns

These bison originated from Yellowstone National Park, which is the largest population of genetically pure bison. Prior to July 2010, based on tests examining mtDNA and nuclear DNA, there were seven plains bison conservation herds that showed no evidence of the introgression of cattle DNA. These seven herds were YNP (Montana, Idaho, Wyoming); Grand Teton National Park (Wyoming); Henry Mountains (Utah); Sully's Hill National Game Preserve (North Dakota); Wind Cave National Park (South Dakota); Elk Island National Park (Alberta); and Mackenzie Bison Sanctuary (Northwest Territories) (Ward et al., 1999; Halbert et al., 2005; Gates et al., 2010). Only two of the herds, Wind Cave National Park and YNP could be confidently considered free of cattle DNA (Halbert et al., 2005; Gates et al., 2010). Yet, new technology, which uses DNA single nucleotide polymorphisms or 'SNPs, is changing the current base of knowledge and current understanding of the extent of cattle gene introgression in bison. This new technology can provide higher resolution, detect recent hybridization, and identify individual bison within a herd that have domestic cattle ancestry (Dratch and Gogan, 2005). DNA technological advances are displaying a greater prevalence of cattle gene introgression than previously documented. Of the seven herds mentioned above the only public herd that is currently considered free of cattle introgression is the YNP herd.

- 21) Will landowners be compensated for damage caused by escaped bison?

The Tribes may provide reasonable compensation for damages to neighboring properties – that would be at the discretion of the Tribes. If bison move off of the reservation, the Tribes will have 72 hours to round them up and move them back onto the reservation. FWP will treat these wild bison like other wildlife through a standard game damage

response, which provides for assistance to prevent further damage and in the case of chronic damage, proactive measures to protect property and stored crops. In the case of wild bison causing damage, FWP would likely use the more aggressive options to prevent damage, which include issuing kill permits to a landowner or animals being removed by FWP. FWP game damage program does not provide compensation for damage caused by wildlife.

22) Is there a source of funding identified to pay for property damage?

Funding would be from existing annual personnel and operations funding, including game damage funds if applicable.

23) Who will be responsible if bison escape?

If bison escape from a tribal facility, and move off of the reservation, Tribal officials will have 72 hours upon notification to get the bison back within reservation boundaries. If they fail to do so, FWP will remove the bison, either through trap and transport, or euthanization.

24) Can a landowner shoot an escaped bison that is on their land (to protect livestock and property)?

If bison escape Tribal facilities but are within reservation boundaries, a landowner's options are up to the discretion of the Tribes. If they move off the reservation, a landowner could not shoot escaped bison unless permitted/authorized by FWP through issuance of a kill permit, similar to how game damage is handled for other big game animals. 81-2-121 MCA allows taking of publicly owned wild buffalo or wild bison that are present on private property, but only if it is suspected of carrying disease. Because these bison have been tested numerous times and are considered free of brucellosis by the Department of Livestock, this statute should not apply to translocated bison. Specifically, 81-2-121 MCA states: (1) This chapter may not be construed to impose, by implication or otherwise, criminal liability on a landowner or the agent of a landowner for the taking of a publicly owned wild buffalo or wild bison that is suspected of carrying disease and that is present on the landowner's private property and is potentially associating with or otherwise threatening the landowner's livestock if the landowner or agent:

(a) notifies or makes a good faith effort to notify the department in order to allow as much time as practicable for the department to first take or remove the publicly owned wild buffalo or wild bison that is present on the landowner's property;

Specific to Spotted Dog WMA

The following comments were submitted as they pertained to Spotted Dog WMA. Since the decision is to not translocate bison to this location, no responses are necessary. FWP appreciates the public's input and did consider all the following comments in making its decision.

1. Have elk been tested to ensure they don't already carry brucellosis and will spread that to these bison?
2. Fencing design is not wildlife friendly
3. Fencing design is inadequate to contain bison especially when snowdrift areas
4. Proposed fencing is illegal – not compliant with state fencing and federal enclosure laws
5. NRDP funds should not be used for bison translocation – inappropriate use of NRDP funds
6. Loss of important elk winter range
7. Loss of recreation and hunting opportunities
8. Not meeting goals/objectives of why the property was acquired
9. FWP said no bison were planned for Spotted Dog when the property was purchased
10. Fenced enclosure will force elk onto adjoining private land or USFS allotments, resulting in more impacts to neighbors.
11. Concerns about safety to utility workers and general public
12. Concerns about escaped bison reaching highway, traffic hazard
13. Status of county road that goes through proposed bison pasture not identified or analyzed
14. Not compliant with land use plan for that area within Powell County
15. FWP should not feed wildlife
16. Concern about expansion of noxious weeds from pasture to surrounding area
17. Baseline information needed to determine impacts of bison on area
18. Grazing management plan is needed
19. Concerns about overall cost to FWP for interim proposal
20. Location not in native or historic range of bison
21. Concerns regarding excess bison at the location and what would happen to excess animals
22. Establishes a game range within the WMA
23. Negative impacts to riparian areas and vegetation within the bison pasture
24. Estimated costs do not fully identify all costs with managing bison at location
25. Range of options and costs were not fully analyzed and casts uncertainty about what is specifically being proposed, and impacts of that. New cost estimate range totally invalidates EA.
26. Lower facilities costs and design plans invalidate analysis presented in EA
27. Impacts to fisheries not adequately analyzed
28. Development of water improvements would result in rangeland deterioration

Specific to Marias River WMA

The following comments were submitted as they pertained to Marias River WMA. Since the decision is to not translocate bison to this locate, no responses are necessary. FWP appreciates the public's input and did consider all the following comments in making its decision.

1. Fencing proposed would contain bison to the WMA
2. Fencing across river is not feasible
3. Not consistent with reason for purchase of property
4. Public safety concerns to people using WMA
5. Concern about bison on golf course – property damage and public safety

6. Access to the WMA via Lincoln Road is not certain
7. FWP should not feed wildlife (bison)
8. If the winter pasture fence is wildlife-friendly, how will you prevent feeding other wildlife (deer)
9. Loss of hunting opportunity because of bison presence
10. Cost to build and manage infrastructure for interim proposal too high
11. Concerns regarding excess bison at the location and what would happen to excess animals
12. Estimated costs do not fully identify all costs with managing bison at location
13. Lower facilities costs and design plans invalidate analysis presented in EA
14. Inclusion of DNRC and BLM lands not analyzed
15. Bison calves would draw more grizzly bears to the area

Comments Common to Both Tribal Locations

1. What is the legal status of escaped bison that move off of the reservation? Will FWP be responsible for bison if they escape and move off of the reservation?

Study bison on the reservation are under the jurisdiction of each Tribe. Study bison that move off the reservation would be considered wildlife, under the jurisdiction of FWP. Other bison managed by the Tribes on their reservation would be considered livestock if they move off the respective reservations. Before any bison would be translocated to tribal lands, an agreement between FWP and the Tribes would be signed, outlining roles and responsibilities of both parties, including expectations of both parties if bison were to exit the reservation. Because bison would be considered wildlife, the agreement would also include necessary authorizations for the Tribe to capture/handle/herd wildlife back to the reservation.

2. Does DoL have any jurisdiction for bison on the reservation?

Montana DOL has no legal authority on the reservation, although it is important that the Fort Belknap Tribe adhere to livestock health provisions in order to not jeopardize the economic value of livestock produced on the reservation. Because they will have completed the initial quarantine protocol, and are considered disease-free, they would no longer have dual status designation as a species in need of disease management under the Dept. of Livestock if they left the reservation (see response to #17 above under general comments).

3. How will you prevent intermingling of QFS bison with existing bison herd until that herd is depopulated?

The Tribes are aware of the importance of keeping their commercial herd and the study herds separate.

In regards to Fort Belknap's situation, they have committed to keeping the study bison contained, and to depopulate their existing herd as quickly as possible. The study bison

will be held in a smaller pasture with stout fencing until the existing herd is depopulated, minimizing the chance for comingling.

Fort Peck's commercial herd is approximately four miles north of the proposed location for the study herd. It is the expectation of FWP and the Fort Peck Tribe that each herd will be kept separate from members of the other herd.

4. How will study bison be identified?

Specific ear tags that currently identify the study bison.

5. If there is comingling of study and commercial herd bison, how does that affect the study?

The study bison will continue to be tested through 2015. If they were to test positive for brucellosis, which is extremely unlikely, any herds with which they comingled would be quarantined and tested per DoL regulations before they could enter the commercial markets.

6. What are terms of MOU between FWP and Tribe?

The specific terms are yet to be negotiated and finalized. However, topics will include expectations for continued testing, containment, response if bison escape, and provisions for some of the bison or offspring to be made available to Montana for future restoration purposes.

7. Will public be allowed to review and comment on MOU terms?

Unlikely, since the agreements will be between the Tribes and FWP.

8. MOU should be in place before bison are moved

FWP agrees, and wouldn't move any bison until there is a signed MOU in place.

9. How will FWP ensure MOU terms are followed?

As with all MOUs, there must be trust and commitment between both parties. This one should be no different than any other government to government agreement.

10. Will FWP get any bison back from the Tribe (i.e., like TEI agreement) and where would they go?

FWP anticipates including a provision in the MOU with each Tribe to allow for return of some of the bison or offspring within a limited time period for use in conservation

purposes, if needed. That need would be determined through the development of the statewide conservation plan discussed above.

11. Who will supervise required brucellosis testing?

The required brucellosis testing will be provision of the MOU between the Tribe and FWP. USDA APHIS has offered any assistance needed to complete the testing.

12. Will there be a herd health plan for these bison? Will the bison be vaccinated? What about future offspring?

That will be at the discretion of each of the Tribes, and each has publicly stated they are committed to sound management of these bison, including any necessary health concerns (see response #2 in this section).

Fort Belknap Reservation

1. How will bison be contained? Tribe has poor track record of containing their current bison. Fencing of existing bison pasture is inadequate.

At least one NGO has committed to helping the Fort Belknap Tribe to build adequate fence to securely keep bison contained. The Fort Belknap Reservation understands the sensitivity of this issue and has committed to ensuring bison remain contained, and if they did escape, to quickly round them up and herd them back onto the reservation. FWP is also committed to responding to escaped bison off the reservation if the Tribe doesn't quickly and effectively respond.

2. Bison shouldn't be moved until fencing is in place.

FWP agrees, and wouldn't move bison until there is high certainty that bison will be adequately contained.

3. Will landowners be compensated for damages caused by escaped bison that move off reservation onto private lands and what will the process be??

The Fort Belknap Tribe has said they will compensate adjoining landowners for reasonable damage claims if study bison escape and cause damage to private property. However, that will be at the discretion of the Tribes.

The process will be determined by the Fort Belknap Tribe.

4. Is there a management plan and grazing management plan for translocated bison? (Specify carrying capacity for sites)

The Fort Belknap Tribe has indicated that once their existing herd is depopulated, they would manage for approximately 450 bison on 22,000 acres on the reservation. The

Tribes plan to install a pasture fence along the boundary between the Range Unit 2 (13,000 acres) and Range Unit 70 (7,000 acres) to its south in order to establish a grazing rest-rotation program between the three range units. The Tribes would allow for the natural expansion of the study bison herd. If necessary, culling efforts would be completed by Tribal Fish & Game staff and the harvested meat would be distributed equally to tribal programs providing services to seniors and diabetics on the Reservation and for cultural and traditional ceremonies.

Natural Resources Conservation Service (NRCS) rangeland surveys were completed for all the Fort Belknap bison pastures in 2006. The local NRCS office and Tribes have actively worked together to improve rangeland health and to establish waterholes within the pastures to be an incentive for bison movements throughout the pastures.

5. Numerous costs to Blaine Co. and adjoining landowners if bison escape

FWP is aware of concerns by neighboring landowners, and has passed those on to the Fort Belknap Tribe, and stressed the need to ensure these bison are contained. The Tribes have committed to keeping bison contained, and paying for any reasonable claims for damages caused by bison.

6. Public would not be allowed to view or access bison

That would be determined by and is at the discretion of the Fort Belknap Tribes.

Fort Peck Reservation

1. Existing 5-foot fence is inadequate to contain bison

The Fort Peck Tribe has experience raising bison, and is confident that the new fence built for containment of study bison is adequate to contain them.

2. Is there a management plan and grazing management plan for translocated bison? (i.e., specify carrying capacity for sites)

The Fort Peck Tribe has indicated they will manage for approximately 150 bison in a 4,800 acre pasture. The Tribes plan to allow for the natural expansion of the study bison herd until the herd reaches the desired population of 150 animals. When that capacity has been reached the Tribes plan to cull the herd to a 70% cow 30% bull ratio. Culling efforts would be completed by Tribal Fish & Game staff and the harvested meat would be distributed equally to tribal programs providing services to seniors, diabetics, and Head Start centers on the Reservation and would be used in cultural and traditional ceremonies. There is also the potential that the harvested bison meat would be used in local school breakfast programs.

3. Will the public have access to these bison?

Because the bison will be under jurisdiction of the Fort Peck Tribe, whether or not to allow public access to study bison will be at their discretions. The Tribes' expectation is these bison would be available for viewing and visitors would be able to move within the bison pasture with permission from Tribal Fish & Game.

4. Will landowners be compensated for damages if escaped bison move off reservation onto private lands?

The Fort Peck Tribe has an insurance policy to cover damages caused by escaped bison. Compensation for property damages caused by escaping study bison (i.e., broken fencing, damaged crops, etc.) would be covered under the Tribal bison insurance policy.

5. Who will pay and what will the process be?

That will be between the Fort Peck Tribe and individual landowners.

6. Does the insurance policy cover damages caused by wild bison?

The Fort Peck Tribes maintain a general liability insurance policy that covers the animals under the Tribes care and control. This policy includes the commercial bison herd at Turtle Mound Ranch and would be extended to cover the translocated bison.

7. Can the public review the insurance policy?

That is at the discretion of the Fort Peck Tribes.

8. Is there funding identified and guaranteed to pay for damages to private off-reservation lands?

Per agreement with the Tribes and under authority granted by FWP, the Fort Peck Tribe would be expected to quickly gather up and return to the reservation any escaped bison. The Tribe's general liability insurance policy is expected to cover the cost of any damages to private property if the Tribes are at fault.